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ATTEST: *Douglas Stewart*  
DEC 13 2007  
FOR THE JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION

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UNITED STATES JUDICIAL PANEL  
on  
MULTIDISTRICT LITIGATION

07 CV 11425

IN RE: FOSAMAX PRODUCTS LIABILITY LITIGATION

Edward Schlam, M.D. v. Merck & Co., Inc.,  
S.D. Florida, C.A. No. 1:07-22839

)

) MDL No. 1789

CONDITIONAL TRANSFER ORDER (CTO-40)

#1

On August 16, 2006, the Panel transferred four civil actions to the United States District Court for the Southern District of New York for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407. *See* 444 F.Supp.2d 1347 (J.P.M.L. 2006). Since that time, 102 additional actions have been transferred to the Southern District of New York. With the consent of that court, all such actions have been assigned to the Honorable John F. Keenan.

It appears that the action on this conditional transfer order involves questions of fact that are common to the actions previously transferred to the Southern District of New York and assigned to Judge Keenan.

Pursuant to Rule 7.4 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 435-36 (2001), this action is transferred under 28 U.S.C. § 1407 to the Southern District of New York for the reasons stated in the order of August 16, 2006, and, with the consent of that court, assigned to the Honorable John F. Keenan.

This order does not become effective until it is filed in the Office of the Clerk of the United States District Court for the Southern District of New York. The transmittal of this order to said Clerk shall be stayed 15 days from the entry thereof. If any party files a notice of opposition with the Clerk of the Panel within this 15-day period, the stay will be continued until further order of the Panel.

FOR THE PANEL:

*Jeffrey N. Lüthi*  
Jeffrey N. Lüthi  
Clerk of the Panel

Inasmuch as no objection is  
pending at this time, the  
stay is lifted.

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